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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

14 IN RE SEAGATE TECHNOLOGY LLC  
 15 LITIGATION

16 CONSOLIDATED ACTION

Case No. 3:16-cv-00523-JCS

**[PROPOSED] ORDER GRANTING  
SEAGATE'S MOTION TO STRIKE AND  
FOR JUDGMENT ON THE PLEADINGS**

Date: June 23, 2017  
 Time: 9:30 a.m.  
 Place: Courtroom G  
 Judge: Hon. Joseph C. Spero

Second Consolidated Amended Complaint  
 filed: July 11, 2016

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3:16-cv-00523-JCS

SMRH:483034057.2

[PROPOSED] ORDER GRANTING SEAGATE'S MOTION TO STRIKE  
AND FOR JUDGMENT ON THE PLEADINGS

Having considered defendant Seagate Technology LLC’s (“Seagate’s”) Motion to Strike and for Judgment on the Pleadings (“Motion”) with regard to Plaintiffs’ Second Consolidated Amended Complaint (“SCAC”) pursuant to Fed. R. Civ. P. 12(c) and Fed. R. Civ. P. 12(f), as well as the opposition filed by Plaintiffs, Seagate’s reply papers and the arguments of counsel, and good cause appearing, the Court hereby GRANTS Seagate’s motion as follows:

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- a. The allegations and claims previously dismissed by the Court are hereby STRICKEN, including:

  - (1) the Fourth and Sixth Causes of Action for express warranty;
  - (2) the Fifth and Seventh Causes of Action to the extent they allege a breach of California Commercial Code section 2314;
  - (3) all allegations of misrepresentations or omissions except those related to RAID or AFR.

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15 in Exhibit 1 to Seagate's Motion.

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- b. Judgment on the Pleadings in favor of Seagate is GRANTED on the Ninth, Fourteenth, and Fifteenth Causes of Action because they depend entirely on factual allegations that were previously dismissed. Nor may class allegations be maintained under any of these claims. Because it would be futile to grant further leave to amend, the Ninth, Fourteenth, and Fifteenth Causes of Action are hereby DISMISSED with prejudice.

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- c. Judgment on the Pleadings in favor of Seagate is GRANTED on the implied warranty claims in the Fifth and Seventh Causes of Action. Nor may class allegations be maintained under any of these claims. Because it would be futile to grant further leave to amend, the Fifth and Seventh Causes of Action are DISMISSED with prejudice.

1 d. Plaintiffs' nationwide class allegations are STRICKEN with prejudice. Under  
2 *Mazza v. American Honda Motor Co.*, 666 F.3d 581, 594 (9th Cir. 2012), each  
3 class member's consumer protection claims should be governed by the consumer  
4 protection laws of the jurisdiction in which the transaction took place. The same is  
5 true of the unjust enrichment claim, which is derivative of the others.

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7 The allegations and causes of action that are dismissed and stricken under items b-d are  
8 reflected in blue, strikethrough text in Exhibit 1 to Seagate's Motion. Plaintiffs are ordered  
9 to file a Third Amended Complaint consistent with this order by \_\_\_\_\_.

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11 IT IS SO ORDERED.

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13 DATED: \_\_\_\_\_, 2017

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16 The Honorable Joseph C. Spero  
United States Magistrate Judge

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